

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Civil Citation No. 0161050

Jose A. Fernandez

770 Lannerton Road

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on December 22, 2009, for a Hearing on two Citations: (1) A citation for violation of Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 408.B, illegal rooming/boarding house; (2) A citation for violations of the Baltimore County Code (BCC) section 13-4-201; 35-5-302; 13-7-310; 312, and (BCZR) section 101; 102.1; IBD1.1A; IB01.1D, failure to properly store trash in cans with fitted lids, and failure to cease open dump-remove all trash and debris on residential property known as 770 Lannerton Road, 21220.

On November 18, 2009, pursuant to § 3-6-205, Baltimore County Code, Inspector Christina Frink issued a Code Enforcement citation. The citation proposed a civil penalty of \$6,800.00 (six thousand eight hundred dollars). The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

On December 4, 2009, pursuant to § 3-6-205, Baltimore County Code, Inspector Christina Frink issued a Code Enforcement citation. The citation proposed a civil penalty of \$800.00 (eight hundred dollars). The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The Respondent failed to request a Code Enforcement Hearing and/or failed to appear after requesting a Hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a Code Enforcement Hearing or if the violator (Respondent) fails to appear after requesting a Hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on August 18, 2009 for removal of open dump/junk yard, remove trash and debris. A Correction Notice was issued on November 18, 2009 for removal of open dump/junk yard, remove trash and debris, store garbage in cans with tight lids, and removal of chicken/roosters not allowed on residential property less than 1 acre of land. The Citation for failure to cease open dump/remove trash and debris and for improper storage of garbage was issued on December 4, 2009. The Citation for illegal rooming/boardinghouse was issued on November 18, 2009, and was issued without prior Correction Notice pursuant to the Department's adopted criteria for immediate Citation. BCC Section 3-6-205.

B. Photographs in the file show garbage cans overflowing with bagged garbage and no lids. This violates prohibitions against the accumulation of junk, trash and debris on residential property, and prohibitions against creation of possible harborage for rats. Because compliance is the goal of code enforcement, the civil penalty will be significantly reduced if the violation is corrected within the time provided below.

C. Notes in the file state that the County received complaints that more than one family is living in this single-family residence. On November 16, 2009, Inspector Frink spoke with a male tenant and was told that six adults and three children reside in the house.

D. Baltimore County's zoning regulations restrict the number of unrelated adults who can occupy a house for compensation. If this is the owner's domicile, the house can only be occupied by an additional two unrelated adults absent a permit for a boarding- or rooming-house. BCZR Section 101.1; Section 408B.

E. Respondent failed to attend this Hearing. The fact that there are six adults residing in the house strongly indicates that there are more than two unrelated adults residing with the owner of this property. The owner does not have a permit for a boarding/rooming-house so this violates County zoning regulations. Unless the violation is corrected, Respondent will be subject to additional Citation with possible additional civil penalties.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$500.00 (five hundred dollars) for the Citation for violations of trash and debris and storage of garbage.

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$50.00 (fifty dollars) if the violation is corrected by February 1, 2010, with all garbage and trash properly stored in cans with tight lids.

IT IS FURTHER ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$2,000.00 (two thousand dollars) for the Citation for illegal boarding-house.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalties as authorized above shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 11th day of January 2010.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

MZF/jaf